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SENSITIVE

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SUBJECT: THAILAND: REPLACEMENT OF RTG AUDITOR-GENERAL
SPARKS CONTROVERSY

1. (SBU) Summary: A controversy over the status of Auditor-General Khunying Charuwan Methanaka is receiving wide attention in Thailand. On May 12, citing a Constitutional Court decision voiding her original appointment, the Senate named former Finance Ministry Deputy Permanent Secretary Wisut Montriwat to replace Charuwan after she has been in the job since November 2001. Her supporters are crying foul, accusing the Thai Rak Thai (TRT) government of removing an effective anti-corruption investigator who has become a thorn in its side. Her supporters claim that, after a series of investigations that targeted Thaksin-appointed senior officials, she now has Transport Minister Suriya Jungrungruenkit in her sights for suspected involvement with fraud connected to the new airport project. Charuwan's removal appears to be legal, even if it is politically-motivated. This controversy has reopened debate about the larger questions of government influence on key appointments and on the constitutionally-mandated independence of the Senate and other offices. End Summary.

ACTIVIST AUDITOR-GENERAL

2. (SBU) Charuwan was an active, senior career auditor in the Auditor-General's Office when she was nominated by the Senate Auditor General Commission and subsequently selected by the Senate to the top post in November 2001. Her name was second on a list of three candidates but she received the nod from the Senate at that time, all of whose members are still holding seats.

3. (SBU) As head of the constitutionally-mandated independent Auditor-General's office, Charuwan has proved to be a strong anti-graft investigator, looking into many cases alleging government fraud and malfeasance under the Thaksin administration. The Palace awarded her the royal honorific of "khunying," and "promoted" her to a higher order, because of her corruption-busting performance. Charuwan investigated projects under the Transport Ministry (the new airport and various highway projects) and the Agriculture Ministry (questionable rice and rubber sales). In 2003, she reportedly was prepared to investigate allegations of fraud by senior Ministry of Health officials administering Thaksin's vaunted 30 baht health care program.

4. (SBU) In June 2003, a group of senators led by Buriram Senator Police Colonel Suraphong Phai-nuan raised questions over the selection procedure for Charuwan, pointing out that since she had been ranked second among the three nominees for the post, her appointment was technically illegal because it did not follow guidelines that only the top nominee should be selected. These Senators petitioned the Constitutional Court to rule on Charuwan's appointment, and the Court subsequently ruled that Charuwan's appointment was unconstitutional and she was thus disqualified for the post. Though a number of senators sent a letter to the Court supporting Charuwan, the Court re-affirmed its ruling in February, 2005. On May 12, amidst accusations by her supporters in the public that the Thaksin administration was pushing out a strong anti-corruption official in favor of a more malleable figure, the Senate selected former Finance Ministry Deputy Permanent Secretary Wisut Montriwat to replace Charuwan. Critics of

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the appointment of Wisut maintain that because Charuwan has not been formally removed by royal fiat, a replacement cannot be named and submitted to the King. For her part, Charuwan is still occupying her office space, but has packed her bags.

NGOS POINT ACCUSE THAI RAK THAI GOVERNMENT OF POLITICAL
MOTIVATION IN REMOVAL

5. (U) The prospective replacement of Charuwan has stirred up a political storm. The NGO Campaign for Popular Democracy (CPD) on May 12 accused the Thai Rak Thai (TRT) Government of engineering her exit in order to rid itself of a troublesome official who was revealing embarrassing instances of corruption. CDP Secretary-General Suriyasai Katasila charged that a majority of senators -- who are supposed to be

non-partisan -- had been instructed by the administration to vote for Wisut. According to Suriyasai, during her term as Auditor-General, Charuwan had discovered and was taking action on several instances of corrupt practices involving TRT ministers, including the prominent airport contract fraud allegations now plaguing Transport Minister Suriya Jungrungruenkit. To stop Charuwan from breathing down Suriya,s neck and despite the legal uncertainty over Charuwan's status, Suriyasai alleged, the Senate,s selection of Wisut as new Auditor-General had been hastily arranged.

16. (U) Chairman of the NGO Confederation for Democracy, Weng Tojirakan, has also charged that the dispute over the Auditor-General post stems from fear among some Thai politicians that Charuwan was getting too close to them in her investigations. According to Weng, after her extended tenure as Auditor-General, Charuwan was close to making major corruption cases against other members of Thaksin's government. Sensing trouble, Weng maintained, these politicians moved to get her out. Weng bemoaned what he considered undue administration influence over the nominally independent Senate, which selected a replacement for Charuwan without plausible reasons, and the Constitutional Court, which passed an unclear ruling on her case. Weng also cited Prime Minister Thaksin,s reluctance to appoint Charuwan to the fact-finding committee on the CTX explosive device detection machine fraud matter, in Weng's view, out of fear that Charuwan would dig up embarrassing facts.
LEGAL ARGUMENTS BY A SUPPORTER

17. (U) One of Charuwan's supporters, former Constitution Drafting Assembly (CDA) member Khanin Boonsuwan, on May 18 characterized the Senate,s appointment of Wisut as a "legal mistake." Khanin argued that Charuwan still retains her status as Auditor-General, since the Constitution provides that the removal from office of the Auditor-General shall be in accordance with the organic law on state audit, and this law does not stipulate that a ruling made by the Constitutional Court (CC) as a valid reason for the Auditor-General,s removal. Khanin added that the CC,s ruling, which declared the unconstitutionality of the Senate,s earlier selection of Charuwan as the Auditor-General, did not specifically mention that she be removed from the office. Therefore, Khanin concluded, the royal appointment of Charuwan as the Auditor-General was still in effect, and that should render the selection of Wisut invalid. He further argued that this also makes it inappropriate for the President of the Senate to present Wisut to the King as new Auditor-General.

18. (SBU) Comment: It does appear that Charuwan's selection in 2001 did not follow the Constitutionally-stipulated procedures, a fact that was known and overlooked by the Senate at the time of her appointment. A royal fiat is not now required to remove her. She had a good reputation before becoming Auditor-General but her real problem is that she has proved to be a much tougher investigator than anticipated. Her removal now clearly is politically-motivated but also is achievable legally, despite the arguments of Khanin. Speculation over what Charuwan knows about government corruption and what she planned to do is particularly topical because of current widespread allegations of fraud in the awarding of contracts for the new airport. Her imminent removal has renewed the debate about the degree of influence exercised by the government over the nominally independent Senate and Constitutional Court. Throughout the Thaksin years the opposition has claimed that these and other constitutionally-mandated watchdog bodies have been packed and unduly influenced by the ruling party and essentially been turned into rubber stamps. The manner in which Charuwan is being replaced as Auditor-General has fed these suspicions among Thaksin's critics and more widely in the Thai public.
End Comment.
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